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2
3 UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
5 OAKLAND DIVISION
6

7 MAUDER and ALICE CHAO;
8 DEOGENESO and GLORINA PALUGOD;
9 And MARITZA PINEL, individually and
on behalf all others similarly situated,

10 Plaintiffs,

11 v.

12 AURORA LOAN SERVICES, LLC,
13 Defendant.

Case No: C 10-3118 SBA

**ORDER RE UNTIMELY OPT-OUT
REQUESTS**

14 In connection with their motion for final approval, Plaintiffs have requested that the
15 Court accept the untimely opt-out requests of two class members identified as Claim No.
16 AUCH1-100030939 (Smith) and No. AUCH1-100065171 (Chapin). See Errata to Pls.’
17 Not. of Mot. and Mot. for Final Approval of Class Action Settlement at 2 n.1 (Dkt. 250);
18 Am. Loeser Decl. ¶ 9 & Ex. C (Dkt. 252, 252-3). While conceding that the requests were
19 postmarked after the December 15, 2014 deadline, Plaintiffs contend that the Court should
20 deem them valid on the ground that both class members previously expressed a desire to
21 opt out of the settlement.

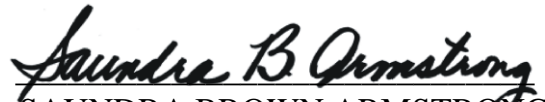
22 The Court’s preliminary approval order unequivocally states that: “Any person who
23 wishes to exclude themselves from the Settlement Class must do so by written request to
24 the Settlement Administrator postmarked no later than [December 15, 2014].” Order
25 Granting Unopposed Mot. for Prelim. Approval of Class Action Settlement at 14, Dkt. 225
26 (emphasis added). Thus, irrespective of any intention previously expressed by these
27 individuals to Class Counsel, it was incumbent upon them to submit their opt-out requests
28 within the time-period specified in the Court’s order. In addition, no extenuating

1 circumstances have been presented to excuse their untimeliness. See Silber v. Mabon,
2 18 F.3d 1449, 1455 (9th Cir. 2011) (applying standard for excusable neglect to an untimely
3 opt-out). Accordingly,

4 IT IS HEREBY ORDERED THAT Plaintiffs' request for the Court to accept the
5 untimely opt-outs of the two class members identified above is DENIED. The Class Lists,
6 which are attached as Exhibits A and B to the Amended Declaration of Thomas E. Loeser
7 in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement (Dkt. 257,
8 252), shall be revised and resubmitted to the Court to include both of the two borrowers
9 discussed above whom the Court finds are bound by the settlement agreement. Exhibit C to
10 the aforementioned declaration also shall be revised and resubmitted to exclude both
11 borrowers from the list of class members who have opted out of the settlement. The
12 resubmitted lists shall be in the form of a stipulation and proposed order and shall be filed
13 within two days of the date this order is filed.

14 IT IS SO ORDERED.

15 Dated: 1/20/15


SAUNDRA BROWN ARMSTRONG
United States District Judge